

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Telephone Number Portability)	CC Docket No. 95-116
)	
YCOM Networks, Inc.)	
Petition for Waiver of Section 52.23(c))	
of the Commission's Rules)	

To: Chief, Wireline Competition Bureau

PETITION FOR WAIVER

Pursuant to Sections 1.3, 1.925 and 52.23(e) of the Commission's Rules,¹ and the Commission's *Intermodal LNP Order*,² YCOM Networks, Inc. (the "Company") hereby requests waiver of the November 24, 2003 implementation date requiring the Company to support wireline-to-wireless number portability ("intermodal porting"). As demonstrated herein, substantial and credible evidence exists that there are special circumstances that warrant departure from the November 24, 2003 date. Accordingly, and in compliance with the specific directives set forth in Section 52.23(e), the Company seeks an extension of time to support intermodal porting until May 10, 2004.³ In support thereof, the following is shown:

¹ 47 C.F.R. §§ 1.3, 1.925 and 52.23(e).

² In the Matter of Telephone Number Portability; CTIA Petition for Declaratory Ruling on Wireline-Wireless Porting Issues, CC Docket No. 95-116 at para. 7 (rel. Nov. 10, 2003) ("Intermodal LNP Order"). The Commission has stated that a carrier facing compliance issues with November 24, 2003 deadline may seek extension by filing a request for waiver. *Id.* at para. 30. Because this request for waiver is filed within sixty (60) days of the date of the November 24th deadline, a waiver of 47 C.F.R. § 52.23(e) is also requested to the extent necessary.

³ By seeking this extension of time, the Company does not waive any of its legal rights with respect to the *Intermodal LNP Order*, including, without limitation, with respect to seeking relief from a court of competent jurisdiction or the Washington Utilities and Transportation Commission with respect to the obligations imposed upon it by the *Intermodal LNP Order*. As provided for in the *Intermodal LNP Order*, this request is limited solely to the technical infeasibility of the Company's compliance with the November 24th deadline.

I. The Company and Pending Intermodal Requests

The Company is a rural local exchange carrier that provides local exchange and exchange access services within the following counties in Washington state: Thurston and Pierce. Of these counties, at least one county is located in an MSA that is among the largest 100 MSAs. **[All]** or Approximately two-thirds of this service territory encompasses areas that are sparsely populated. The entire service area covers approximately 172 total square miles. The Company serves approximately 74.9 access lines per square mile. The largest town in this service area has a population of approximately 3,000.

The Company received a request from Verizon Wireless dated May 28, 2003, and a request from Sprint PCS dated May 23, 2003, to support intermodal portability by November 24, 2003.⁴ Although, in general, many wireless carriers have referenced incorrect CLLI codes, the codes of the Company's switches are: RANRWAXARS1, YELMWAXADS0, and YELMWAXBRS0. The Company responded, questioning the validity of the request.⁵ The Company received no response from the requesting CMRS carriers with respect to the questions raised regarding the request. As further discussed below, the Company, like the wireline industry in general, did not understand the requests of the CMRS carriers to be a request for number portability enabling a customer to retain, at the same location, the use of the number. Accordingly, the Company did not act further on the request prior to the November 10, 2003 release of the *Intermodal LNP Order*.

⁴ A copy of the requests are attached as Exhibit 1.

⁵ A copy of the correspondence sent to the wireless carriers is attached as Exhibit 2.

**II. Waiver is Warranted on the Basis of the
Company's Compliance with Section 52.23(e) Criteria**

The Company is and has been fully aware of its obligation established by Section 251(b)(2) of the Communications Act of 1934, as amended (the "Act") with respect to the implementation of LNP; it is likewise aware of the Commission's Section 252 Subpart C rules regarding number portability and, specifically, implementation requirements. Prior to the receipt of the requests for number portability from the requesting CMRS carriers, the Company had received no other requests for number portability, and, accordingly, had no basis for expending limited resources on the deployment of number portability. Given the set of circumstances surrounding the Commission's implementation of intermodal number portability, the Company has acted and continues to act in good faith to comply with the Commission's requirements. In compliance with Section 52.23(e), the Company sets forth the following information:

**A. Section 52.23(e)(1): The Facts Demonstrate why the
Company is Unable to Meet the Commission's Deployment Schedule**

The Company utilizes a nationally-recognized switch vendor. The switch is number portable-capable. The mere addition of the software, however, does not prepare the switch for full LNP functionality. In addition, SS7/STP vendor contractual arrangements for performing SS7/STP messaging transactions must be obtained and LNP query database dips and Service Order Activation ("SOA") must be negotiated. Actual SS7/STP LNP network activation then takes at least 60 days to be completed, followed by formal testing throughout the local and SS7/STP networks. Other processes that must be addressed coincident with and completed prior to activation include establishing a SOA interface; modification of existing Service Order

Provisioning and Audit Systems, Plant Record systems and directory number assignment/aging/utilization applications, and billing systems applications. In addition, the Company is not technically able to comply with what appear to be the requirements of the *Intermodal LNP Order* with respect to the transport of and “rating”⁶ of calls to a number ported to a wireless carrier.

As a result of the logistic realities, the Company has, in good faith, determined that it is not possible to implement and test the necessary switch-related changes prior to the November 24th deadline.

B. Section 52.23(e)(2): A Detailed Explanation of the Activities that the Carrier has Undertaken to Meet the Implementation Schedule Prior to Requesting an Extension of Time

In good faith, the Company attempted to meet the implementation schedule prior to requesting an extension of time. The Company has again requested specific information from the requesting wireless providers to ensure specific coordination with them regarding the Company’s porting activities when and if a request is made to port an end user’s telephone number. Prior to the issuance of the *Intermodal LNP Order*, the Company received either no answer or a non-responsive answer to its inquiries from the requesting wireless provider, or received generic documents regarding level service arrangements. The Company did provide preliminary information to requesting carriers upon request including information regarding switch locations and capabilities.

As discussed, prior to the issuance of the *Intermodal LNP Order*, the Company, like other similarly situated carriers in general, did not take additional action to implement number portability because of the understanding that the CMRS carrier requests exceeded the

⁶ Local exchange carriers do not “rate” their local exchange services.

Commission's expectations and the statutory requirements set forth in the Act. After the issuance of the *Intermodal LNP Order*, the Company has proceeded with good faith efforts toward the implementation of number portability including the commitment of the necessary financial resources required to acquire and deploy the required switch upgrades. Additional inquiries to the requesting wireless provider have been undertaken to ensure proper coordination, and the Company is working with its switch vendor to go forward with the necessary switch changes.

C. Section 52.23(e)(3): An Identification of the Particular Switches for Which the Extension is Requested

The particular switches for which the extension is requested are:

RANRWAXARS1, YELMWAXADS0, and YELMWAXBRS0.

D. Section 52.23(e)(4): The Time in Which the Carrier Will Complete Deployment in the Affected Switches

The Company will attempt to complete deployment in the affected switches by May 10, 2004, six months after the issuance of the Commission's *Intermodal LNP Order* in which the Commission provided guidance of its intermodal porting requirements. The Company notes that its implementation schedule is dependent upon its switch vendor, and coordination and testing between it and the requesting wireless provider. While the implementation of the necessary switch changes will technically enable the provision of number portability, the Company also remains concerned that technical compliance with the directives of the *Intermodal LNP Order* regarding the treatment of calls from the Company's network to a number ported to a wireless carrier is not technically feasible in the absence of the deployment of a physical connection of the wireless carrier to the Company's network.⁷

⁷ The relief requested herein, however, is limited to the request for a waiver of the implementation time in

E. Section 52.23(e)(5): A Proposed Schedule with Milestones for Meeting the Deployment Date

The Company will provide the Commission with quarterly progress reports during the period within which the extension is provided. Those reports will provide the Commission with all relevant progress, the dates of the purchase and installation of the upgrades, and a summary of the steps taken and to be taken regarding the Company's ability to support ~~intermodal~~ porting.

III. Additional Facts Supporting the Company's Request for Waiver

As set forth above, the Company meets all relevant criteria established in Section 52.23(e) to support the Company's waiver request. The Company respectfully submits that additional support for the requested waiver is found within the context of the Company's good faith approach to its porting obligations.

The Company, like most (if not all) providers of wireline local exchange services, did not expect that its statutory obligation to provide number portability extended to a CMRS request for number portability under the existing Part 52 rules unless the requesting CMRS carrier confirmed that the number would be used by the telecommunications user "at the same location" where the customer used the number prior to portability.⁸ The record before the Commission prior to the *Intermodal LNP Order* bears out the existence of this general industry understanding.⁹

order to afford the company the time necessary to implement the necessary switch changes. The Company anticipates that the Commission will subsequently address the general deployment concerns regarding calls to a ported number in other proceedings, and respectfully reserves the right to seek additional relief to the extent necessary to ensure its full compliance with the Commission's applicable rules.

⁸ 47 U.S.C. § 153(30).

⁹ See, e.g., Comments of CTIA, CC Docket No. 95-116, filed May 13, 2003 at 5; Comments of United States Cellular Corporation, CC Docket No. 95-116, filed February 26, 2003 at 4; Comments of Verizon Wireless, CC

In hindsight, the Company also took misplaced comfort in the public statements from FCC decision-making staff that the issues regarding intermodal porting would be resolved well in advance of the November 24, 2003 deadline. In responding to questions regarding FCC action on pending issues regarding number portability, John Muleta, Chief of the FCC's Wireless Telecommunications Bureau stated, "We'll do it soon. . . . We've said that we will address it well in advance of the Nov. 24 LNP deadline."¹⁰ As late as October 7, 2003, the FCC likewise made clear that its decisions to date did not address intermodal porting issues:

[W]e do not here address the issues related to wireline-wireless porting. Issues associated with wireline-wireless porting will be addressed in a separate item, and we affirm that none of the actions taken here today bind the Commission in any way in taking future action on the implementation of wireline-wireless porting.¹¹

As the totality of the circumstances demonstrate, the Company acted in good faith in response to the number portability requests of the CMRS carriers, and had a reasonable basis to await the Commission's directives. The Company held a reasonable good faith expectation that the uncertainty and associated issues surrounding the matter of intermodal porting would be resolved in sufficient time to permit the Company to deploy intermodal number portability within a time frame consistent with the six month period established in the Commission's rules.

Because of the acknowledged uncertainty throughout the industry regarding the

Docket No. 95-116, filed June 13, 2003; Comments of Cingular Wireless, LLC, CC Docket No. 95-116, filed June 13, 2003 at 25; Comments of AT&T Wireless Services, Inc., CC Docket No. 95-116, filed on June 24, 2003 at 1. In fact, the *Intermodal LNP Order*, prior FCC actions, and public statements from FCC decision-making personnel demonstrate the Commission's awareness of this general understanding. See e.g., *Intermodal LNP Order* at para. 1; the Commission's Daily Digest announcing the issuance of the *Intermodal LNP Order* states: "FCC CLEARS WAY FOR LOCAL NUMBER PORTABILITY BETWEEN WIRELINE AND WIRELESS CARRIERS." The existence of uncertainty, confusion and the need for clarification was well known and understood.

¹⁰ FCC Officials Press Wireless Firms to Move Ahead on LNP Deployment," TR Daily, Sept. 8, 2003 ed.

¹¹ In the Matter of Telephone Number Portability – Carrier Requests for Clarification of Wireline-Wireless Porting Issues: Memorandum Opinion and Order, CC Docket No. 95-116, FCC 03-237 at para. 21 (rel. Oct. 7, 2003).

intermodal portability issues, and the Commission's promised direction, the Company had no expectation that a strict reading of the Commission's anticipated decision could possibly require the Company to support intermodal porting by November 24, 2003. The Company's circumstances are dissimilar to those of other carriers that have previously received requests to deploy wireline to wireline portability because the Company has never previously received a request for wireline to wireline portability. Accordingly, those companies that already deployed the hardware changes to comply with prior requests may very well be technically capable of supporting intermodal portability on November 24, 2003. For all of the reasons provided above, the Company is not technically capable of meeting this deadline.

IV. Conclusion

As demonstrated by its actions, the Company has not shirked its obligation to respond to a *bona fide* request to implement number portability. The Company acted prudently prior to the Commission's provision of direction in the *Intermodal LNP Order*. The Company did not ignore any request for number portability and it provided all information sought by any requesting carrier. Subsequent to the provision of direction by the Commission provided in the *Intermodal LNP Order*, the Company has undertaken efforts to deploy number portability.¹²

As demonstrated above, and in the context of the totality of the circumstances leading up to the issuance of the Commission's *Intermodal LNP Order*, the Company has demonstrated that it meets the Section 52.23(e) criteria to support its request for waiver and extension of the November 24, 2003 number portability implementation date. The Company respectfully submits

¹² Factually, no requesting carrier has indicated to the Company an actual specific intent to port a number on November 24, 2003. The Company will contact the requesting carriers regarding this waiver request, and offer to work toward a mutual coordination of deployment.

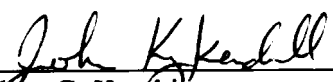
that a grant of this request under these specific facts and circumstances is consistent with the Commission's recognition that its consideration of requests for waivers of the November 24th deadline be accomplished in "such manner as will best conduce to the proper dispatch of business and to the ends of justice."¹³

For the reasons stated herein, the Company requests that the Commission grant it until May 10, 2004, with respect to its obligations to support intermodal porting as provided for in the Commission's *Intermodal LNP Order*.

Respectfully submitted,

YCOM Networks, Inc.

By:


Stephen G. Kraskin
Thomas J. Moorman
John Kuykendall
Kraskin, Lesse & Cosson, LLC
2120 L Street, N.W., Suite 520
Washington, D.C. 20037
Tel. No. (202) 296-8890
Fax No. (202) 296-8893

November 21, 2003

¹³ 47 U.S.C. §154(j).

EXHIBIT 1



May 28, 2003

Ycom Networks, Inc.
PO Box 593
Yelm, WA 98597

Verizon Wireless
Interconnection/Numbering/Mandates
2785 Mitchell Drive MS 7-1
Walnut Creek, CA 94598

Attn: Sandra Hanson,

Consistent with the rules of the Federal Communications Commission ("FCC"), on November 24, 2003, Verizon Wireless will begin competitive porting by offering customers local number portability ("LNP").²³⁷ The FCC sought to simplify the task of identifying the switches in each MSA in which number portability is deployed and to facilitate competitive entry.²³⁸ The FCC's rules require local exchange carriers to make available, upon request by any interested party, a list of their switches for which provisioning of number portability has been requested (and therefore provided) and a list of their switches for which provisioning of number portability has not been requested.²³⁹ Verizon Wireless requires only a list of switches and NPA-NXX codes for which provisioning of LNP has not been requested.

Verizon Wireless has simplified this request by attaching a form containing a list of switches and codes for your review. This list was derived by using the LERG and comparing it to Verizon Wireless's licensed service areas. The list identifies the switch CLLI and NPA-NXX codes that Verizon Wireless believes are not yet LNP capable. Please review and update the attached form, making any necessary changes or additions to the list regarding switches and codes that have not been marked portable. Please indicate the date by which the switch and codes will be LNP capable.²⁴⁰ Any comments can be made in the column provided on the form.

Verizon Wireless requests that you review, update and return the attached form to the undersigned contact within 10 days of receipt. Please call the undersigned with any questions or concerns

A handwritten signature in black ink, appearing to read "Linda Godfrey".

Linda Godfrey
Verizon Wireless
Interconnection, Numbering and Mandates

925-279-6570

Enclosures

²³⁷ See 47 C.F.R. § 52.31.

²³⁸ Local Number Portability, *First Memorandum Opinion and order on Reconsideration*, 12 FCC Rcd. 7236, ¶¶59-66 (1997).

²³⁹ *Id.* at ¶64; 47 C.F.R. § 52.23(b)(2)(iii).

²⁴⁰ The timeframes for conversion to LNP of any additional switches are governed by the FCC's rules and range from 30 days to 180 days, depending upon the status of the switches (*i.e.*, equipped remote, hardware capable, capable switches requiring hardware, and non-capable). 47 C.F.R. § 52.23 (b)(2)(iv)(A-D).

Bonafide Request Form (BFR)Purpose:

The purpose of this letter is to request the deployment of long-term Local Number Portability as defined by the FCC. Specifically, this form requests that ALL codes serving the Metropolitan Statistical Areas be opened for portability in the LERG and the NPAC and ALL switches serving these areas are LNP capable.

Note: MSAs refers to the identified U.S. Census Bureau MSAs for 2000. These may differ from the MSAs as separately defined by the wireless or wireline industries. In those instances where no MSA has been identified, please reference Rate Center to ensure switches and NPA-NXXs serving those areas are opened for porting.

TO (RECIPIENT):

If LERG contact info is
incorrect, please change below.

Company
Name: _____
Contact Name: _____
Contact's Address: _____

Contact's
Email: _____
Contact's Fax: _____
Contact's Phone: _____

FROM (REQUESTOR):

Company Name: Cellco Partnership d/b/a
Verizon Wireless
Contact Name: Linda Godfrey
Contact's Address: 2785 Mitchell Drive
Walnut Creek, CA 94598
Building 7-1, 7111G
Contact's Email:
Linda.Godfrey@Verizonwireless.com
Contact's Fax: 925-279-6621
Contact's Phone: 925-279-6570

Timing:

Date of Request: May 19, 2003
Receipt Confirmation
Due By: May 29, 2003 (Due no later than 10 days after the date of the request.)
Effective Date: November 24, 2003 or May 24, 2004 pursuant to the FCC rules

**Wireline Bonafide Request form (BFR) for Local Number Portability Ycom Networks,
Inc. Nonportable NPA-NXXs and CLLIs**

COC TYPE	ST	RATE_CNTR	PORTABLE	NPA	NXX	Date NPA-NXX marked Portable	Comments	SOF 38-LNP	SWITCH	Date Portable	Comments
EOC	WA	RAINIER	N	360	446			-	RANRWAXARS1		
EOC	WA	YELM	N	360	458			-	YELMWAXADS0		
EOC	WA	YELM	N	360	894			-	YELMWAXBRS0		
EOC	WA	YELM	N	360	400			-	YELMWAXADS0		